

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DONALD J. TRUMP FOR)	Civil Action
PRESIDENT, INC.; et al.,)	
)	
Plaintiffs,)	
)	No.: 2-20-CV-966
v.)	
)	
KATHY BOOCKVAR; et al.,)	
)	
Defendants.)	Judge J. Nicholas Ranjan

**DEFENDANT POTTER COUNTY ELECTION BOARD'S
MOTION TO DISMISS PLAINTIFFS' COMPLAINT**

Defendant, Potter County Board of Elections (“Potter County”), by and through its attorneys, Thomas R. Shaffer and Glassmire & Shaffer Law Offices, P.C., moves this Court to dismiss Plaintiffs Complaint against it in accordance with Federal Rule of Civil Procedure 12(b)(6), and states in support thereof:

1. Plaintiffs commenced this lawsuit against the Secretary of the Commonwealth of Pennsylvania and against all 67 county boards of elections for each county of the Commonwealth of Pennsylvania on June 29, 2020. (see Complaint Paragraph 17)
2. Plaintiffs' complaint seeks declaratory and injunctive relief for various alleged improprieties in connection with Defendants' conduct of elections in Pennsylvania, including the most recent June 2, 2020 Primary Election and the upcoming November 3, 2020 General Election.

3. In particular, Plaintiffs complain of unmonitored by-mail voting, the use of drop-off boxes for ballots at locations other than the location of county board of elections, the failure to have poll watchers at locations which are not “polling places,” and the counting of ballots which have no secrecy envelope and have raised a number of legal arguments concerning these matters.

4. Paragraph 20 of the Complaint makes reference to approximately twenty (20) counties which are alleged to have engaged in one or more of the practices which Plaintiffs' oppose.

5. Various individual counties are individually named in various paragraphs of the Complaint as alleged to have engaged in the activities and conduct which is the subject matter of the lawsuit.

6. None of the named Plaintiffs are residents of or citizens who vote in Potter County.

7. Plaintiffs include a State Representative from the 15th Congressional District, and individual voters from the 16th Congressional District, the 13th Congressional District and the 14th Congressional District (See Complaint paragraphs 9-15).

8. Potter County is a part of the 12th Congressional District and no plaintiff is a voter in the 12th Congressional District.

9. The Complaint only mentions Potter County, by name, in two locations. The first location is in the caption on page 2 of the Complaint. The second location in the Complaint where Potter County is mentioned, is in paragraph 17 where Potter County is listed as one of the 67 boards of election in Pennsylvania. These are the only facts in the Complaint which mention or address Potter County.

10. There is not a single factual allegation in the Complaint of any misconduct which is asserted to have occurred in the County of Potter or by Potter County Board of Elections.

11. There is not a single factual allegation in the Complaint that Potter County accepted any mail-in ballots at any location other than the Potter County Board of Elections (it has not).

12. There is not a single factual allegation in the Complaint that Potter County utilized any type

or kind of “drop box” for the collection of ballots at location other than the Potter County Board of Elections (Potter County did not utilize any drop boxes).

13. There is not a single factual allegation in the Complaint that Potter County received any mail-in ballots which lacked a security envelope (all mail-in ballots received had a security envelope).

14. There is not a single factual allegation in the Complaint that any defective ballot was counted nor that any proper mail-in ballot was not counted in Potter County.

15. There is not a single factual allegation in the Complaint that any voter was disenfranchised in Potter County in connection with the June 2, 2020 Primary Election.

16. There is not a single factual allegation in the Complaint that any person, party or candidate engaged in any fraud or conspiracy to impede or interfere with the June 2, 2020 Primary Election in Potter County.

17. There is not a single factual allegation in the Complaint of any irregularities in the Potter County's acceptance of hand-delivered absentee ballots or of implementation of any inconsistent policies regarding the same in connection with the June 2, 2020 Primary Election.

18. Stated most succinctly, Plaintiffs' Complaint does not contain ANY facts regarding Potter County and should be dismissed.

WHEREFORE, it is respectfully requested that the Complaint against the Potter County Board of Elections be dismissed under Rule 12 (b) (6) of the Federal Rules of Civil Procedure.

Respectfully submitted,

GLASSMIRE & SHAFFER LAW OFFICES, P.C.

By: /Thomas R. Shaffer/
Thomas R. Shaffer,
Pa. I.D. No. 37503
Solicitor for Potter
County Board of Elections

5 East Third Street
Coudersport, PA 16915
(814) 274-7292

CERTIFICATE OF SERVICE

I hereby certify that on this day, a true and correct copy of the foregoing document was filed electronically. Notice of this filing will be sent to all registered parties by operation of the Court's electronic filing system, pursuant to the Federal Rules of Civil Procedure.

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Pa. I.D. No. 37503
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Dated: 07/18/2020